

## REMARKS

Receipt of the Office Action of December 17, 2007 is gratefully acknowledged.

Claims 11, 16, 17 and 21 have been examined in this RCE application. These have been objected to because of the recitation in claim 11 of "is dimensional such that," and because claim 21 is "...of improper dependent form for failing to further limit the subject matter of a previous claim." These have also been rejected as indefinite under 35 USC 112, second paragraph, because claim 11 recites both "a broad range" followed by a "narrow range," in the same claim. These have also been rejected under 35 USC 103(a) over Russwurm in view of Su.

Regarding the objection, claim 11 has been amended to improve its syntax and thereby overcome this objection.

Regarding the rejection under 35 USC 112, second paragraph, it is respectfully submitted that the phrase "such as" and "such that" convey different meanings. The former conveys an identity whereas the latter conveys a condition and does not give rise to the "broad-narrow" condition. Nevertheless, and in order to expedite prosecution, claim 11 has been amended to delete the reference to the "two sonic paths." This reference has been inserted in new claim 22. As to the rejection of claim 21, this rejection under 35 USC 112, second paragraph is respectfully traversed. Claim 21 does in fact further limit claim 11 in that it specifies that the flowmeter is mounted on the outer surface of the containment, whereas claim 11 merely recites that the transducers only are clamped on the containment. The recitation in claim 21 is more restrictive and therefore in accordance with proper dependent claim drafting.

Regrading the rejection under 35 USC 103(a), it is noted that this rejection is respectfully traversed.

Russwurm does not, as suggested by the examiner teach “the device as claimed.” Russwurm does not relate to a clamp-on ultrasonic flow meter, which the present invention does. In Russwurm, the transducers are part of the containment (see Fig. 2 of Russwurm). Because of this, the transducers of Russwurm are fixed at a predetermined angle. Not so according to the present invention. To insure clarity regarding this distinction, claim 11 has been amended to recite that the transducers are **attached** to the containment by clamping. To be attached is not to be integral as is Russwurm. As a result of attaching by clamping, the separation and angular relationship can be varied, which is not possible with Russwurm.

Moreover, Russwurm suggests suppressing the signal of the parasitic V-shaped path as compared with the useful signal on the W-shaped path (col. 2, lines 37-40). According to the present invention, both signals are used to get information on further process or system parameters which are necessary for determining the flow rate of the medium flowing through the containment. These parameters are , for example, the sound velocity of the medium or the sound velocity of te material of the outer wall of the containment.

There is no teaching in Russwurm or Su to even suggest to the person skilled in the art to eliminate the disturbing V-shaped signal of Russwurm in favor of the signal of the present invention. And, if such a suggestion did exist, it would also have to appraise the person skilled in the art that further information could be obtained. There certainly is no such teaching in Russwurm or Su to this effect.

The results achieved by the present invention are not possible with Russwurm and Su. It must be understood that the person skilled in the art has

no knowledge of the present invention. His only source would have to be Russwurm and/or Su, and these references simply do not contain the necessary teaching.

In view of the foregoing, reconsideration and re-examination are respectfully requested and claims 11, 16, 17, 21 and 22 found allowable.

Respectfully submitted,  
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